

PATENT

REMARKS

BEST AVAILABLE COPYstatus of the claims.

Claims 1-10 were pending in the application at the time of the Office action of October 4, 2005, and were rejected. Claims 3-7 were objected to as depending from a rejected base claim but were indicated as allowable if rewritten independently including all limitations of base and intervening claims.

By this response, claim 3 is rewritten independently by including in claim 3 the limitations of base claim 1, and additional limitations, but without the limitations of claims 2.

The amendments herein are submitted to raise no issue of new matters as the features recited by the amendments are shown clearly in the drawings and specification.

§102 Issues

Claims 1 and 2 were rejected as anticipated by Russo 4,524,848. Examiner states that "Russo discloses a safety case assembly 30, attachable to a ladder 20 and positionable at any point therealong, the assembly having section components 32, 34, the components attached along vertical splits by means of fasteners 64, and at fastening axes 60, this arrangement serving as a releasable mechanical securement to ladder side rails 24, 26 and between the components."

It is believed that Examiner too broadly interprets Russo as having "vertical splits" perhaps because Examiner either is referring to the space between inner portions of the section components where they are attached to an existing ladder, or perhaps because Examiner is referring to Russo's construction seeming to be horizontally split or divided into upper and lower sections.

In either event that is definitely not what Applicant claims.

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It will be helpful to note carefully just what Applicant has disclosed, for as is set out in paragraph 0028 (of the published application) Applicant's specification states:

Each section 6 has a first section component 8 and a second section component 10. These section components are identical and one section has merely been reversed and assembled to the opposite side of the ladder. These section components are joined at the vertical split 12 by means of an upper connector 14 and a lower connector 14. The upper connector at FIG. 1 is associated with the right hand section and the lower mechanical connector is associated with the left hand section. The connector 14 is captured on section 8 and includes a T-head for insertion through a slot and rotation to engage the vertical flange of the opposite section.

Russo does not provide a vertical split. In fact, it is not clear at all that Russo even has divided the section components, because a close reading of column 3, lines 3-10, shows that Russo uses a pair of flexible metal straps 38, giving the appearance of a horizontal separation or split, but it does not appear to the undersigned that the sections are actually separate.

In event, it is decidedly true that no vertical split is used by Russo, and such a vertical split is not spaced centrally outwardly from the ladder. To more clearly set forth Applicant's invention, claim 1 has been amended to emphasize the distinction between the claim and the Russo reference by providing the clause with additional limitation (underlined) "wherein each section is vertically split so as to provide a vertical split of the safety cage spaced centrally outwardly from the ladder".

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It is asserted that the claimed structure with this feature is not taught or disclosed by Russo, so that clearly there is no anticipation by Russo. It is also asserted that the claimed structure with this feature is not taught or disclosed or suggested by Russo or other art such as the principal reference Lazarus 5,350,038, so that claim 1 as now amended should be viewed as patentably unobvious over such art or combination of references.

Claim 1 accordingly should be held allowable in the application.

Claim 2, as dependent from claim 1, similarly should be allowed in additionally limiting claim 1 by providing that each cage component is supported by a rung of said ladder.

§103 Issues

Claims 3-7 were objected to only as depending from a rejected base claim but were indicated as allowable if rewritten independently including all limitations of base and intervening claims. Claim 3 depended from claim 2, which depended from claim 1. But it is believed that claim 3 should be allowable if it incorporates only the limitations of claim 1.

Applicant now accordingly amends claim 3 by incorporating into claim 3 the limitations of base claim 1 but without the limitations of claims 2. In addition, the amended claim 3 also recites the additional distinction "at a point outwardly from the ladder" so as to more clearly emphasize that the "vertical split" is not the vertical split through which the ladder extends.

Applicant asserts that the reference combination of Russo and Lazarus does not suggest to the skilled artisan the combination of claim 3, for neither such references or other art cited provides the claimed feature, as recited of

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each section is vertically split with one cage component on one side of said vertical split and a second cage component on the opposite side of said vertical split, each cage component including a releasable mechanical securement with the other respective cage component at said vertical split to secure said components to one another at said vertical split at a point outwardly from the ladder.

This construction is neither disclosed by nor suggested Russo or Lazarus or their combination. The person having ordinary skill in the art would not be able from the teachings of either reference to modify the other reference so as to come up with what Applicant has claimed.

Moreover, Applicant's claimed invention (whether as defined in claim 1 or in claim 3) provides very distinct advantages over the art. Reference is made to paragraph 30 of Applicant's published application, which highlights the advantages thus:

[0030] Once a first section has been secured, the opposite section can then be brought up and placed on the ladder. Once again, it is temporarily secured and then positively secured to the ladder. Once so located, the vertical split between the two sections are generally aligned. The worker can then use the wedges with the T-shaped bolts for securing the vertical split between the sections by means of the two connectors. This can be accomplished in a fast and effective manner and represents a significant labour saving over the construction of an onsite fabricated safety cage which is fabricated each time a ladder is erected.

Because the art does not teach or suggest the claimed construction of Applicant's safety cage for a ladder, Applicant believes accordingly that claim 3 defines patentably over the cited art, as so also does claim 1.

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Examiner has treated claims 8-10 as rejected under §103(a) as obvious over the combination of Russo and Lazarus. That rejection should now be moot for the following reason.

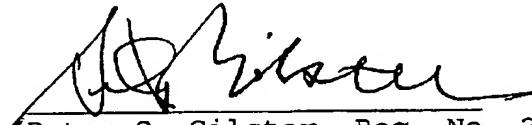
With the amendment to claim 3, all of claims 4 through 10 are now dependent ultimately from claim 3 and should be patentable for the same reasons as claim 3, and that would include claims 8-10.

Summary: In view of the amendments herein presented, and remarks provided, is believed that the foregoing resolves all remaining issues, and the application is in good order for allowance, and a Notice of Allowance is solicited.

If Examiner believes there is any remaining issue, which could be readily resolved or other action could be taken to advance this application, such as Examiner's amendment or interview by telephone or in person, it is requested that Examiner please telephone the undersigned, who will cooperate to advance prosecution.

If necessary to effect a timely response, this paper should be considered as a petition for extension of time of length sufficient to be considered timely. Any fees required are authorized to be charged to Deposit Account No. 07-1985.

Respectfully submitted,



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